

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* DEMOTT, Minors.

UNPUBLISHED  
September 14, 2017

No. 337290  
Genesee Circuit Court  
Family Division  
LC No. 15-132022-NA

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Before: O'BRIEN, P.J., and JANSEN and MURRAY, JJ.

PER CURIAM.

Respondent appeals as of right a trial court order terminating his parental rights to minor children CD, AD, and MD, pursuant to MCL 712A.19b(3)(c)(i) (conditions that led to the adjudication continue to exist), (c)(ii) (other conditions supporting jurisdiction have not been rectified), (g) (failure to provide proper care and custody), (h) (child would be deprived of a normal home for more than two years because of parent's incarceration), (j) (reasonable likelihood that child will be harmed if returned to parent), and (n)(ii) (violation of a criminal statute that includes as an element the use of force or the threat of force and subjects respondent to sentencing as a habitual offender, and where continuing the parent-child relationship would be harmful to the child). We affirm.

Here, respondent takes no issue with the trial court's findings regarding the existence of statutory grounds for termination of respondent's parental rights. On appeal, respondent argues only that the trial court erred in its conclusion that termination of respondent's parental rights was in his children's best interests. We disagree.

After the establishment of statutory grounds, a trial court must order the termination of a parent's rights if it finds by a preponderance of the evidence that termination is in the child's best interest. MCL 712A.19b(5); *In re Moss*, 301 Mich App 76, 83; 836 NW2d 182 (2013). We review a trial court's decision that termination is in the child's best interest for clear error. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). A finding is clearly erroneous if, after reviewing the entire record, we are left with a definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

"The trial court should weigh all the evidence available to determine the children's best interests." *White*, 303 Mich App at 713. In doing so, the trial court "should consider a wide variety of factors that may include the child's bond to the parent, the parent's parenting ability, [and] the child's need for permanency, stability, and finality." *Id.* (quotation marks and citation omitted). Additionally, evidence of a parent's abuse of a child may be considered in determining

a child's best interest. See *In re Powers*, 244 Mich App 111, 120; 624 NW2d 472 (2000). In making this determination, a court's focus is on the child rather than the parent. *Moss*, 301 Mich App at 87-88. When there are multiple children involved, a trial court need only address the best interest of each child individually if their interests are significantly different. *White*, 303 Mich App at 715-716.

We are not definitely and firmly convinced that the trial court made a mistake when it found that termination of respondent's parental rights to CD, AD, and MD was in each of the children's best interests. The trial court carefully considered a wide variety of factors before reaching its ultimate determination, properly relying on respondent's history of child abuse, which included convictions for two counts of first-degree child abuse during the pendency of this case, and respondent's inability to provide permanency in light of a lengthy incarceration.

Respondent argues that termination of his parental rights was inappropriate because he shared a bond with his children. A child's bond with the respondent is but one factor to be considered in the best interests determination, *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012), and even given evidence of a bond, termination may be in the children's best interests if there is a serious dispute as to whether the parent has a healthy bond with the children, see *In re CR*, 250 Mich App 185, 196-197; 646 NW2d 506 (2002), overruled in part on unrelated grounds by *In re Sanders*, 495 Mich 394, 422-423 (2014). Here, evidence of a bond of any type is scant. Although there was some evidence of a "limited" bond between respondent and the children several years before the termination hearing, the bond had clearly weakened as time passed. A representative of Child Protective Services (CPS), Joshua Vorhees, testified at the termination hearing that respondent had only seen the children four times between 2010 and his incarceration in March, 2015. Since the initiation of child custody proceedings, respondent had only sent one letter to the children, and none of the children responded. None of the children expressed a desire to see respondent again. Vorhees also testified that none of children had strong memories of respondent, and "[the children] seem to flourish not having contact [with respondent]."

At the time of the termination hearing, all three of respondent's children had already been living with their biological mother for almost two years. All three children were happy and well-adjusted, despite respondent's lack of involvement. Voorhees testified that the children's biological mother was "very strongly bonded to the children, very loving, very caring. She's active in their schooling; and I have no concerns whatsoever with—with her parenting or her home." The trial court explicitly considered the children's need for permanency and stability, as well as the fact that an ongoing relationship with respondent could be harmful to the children.

Respondent's parenting ability was very much in question, and the trial court properly considered the threat of harm respondent posed to his children. Respondent's children were removed from the home respondent shared with his girlfriend after respondent was arrested for "severe" and "intense" injuries he caused his girlfriend's two-year-old son, while in the presence of his own children. Respondent was convicted of two counts of first-degree child abuse as a result of the incident. Respondent contends that because he is in prison and ineligible for release until 2041, he poses no risk to his children and accordingly, termination of his parental rights is not in the best interests of his children. Respondent's argument is clearly self-interested, and here the children's need for permanency and stability outweighs respondent's desire to parent.

Further, as the trial court recognized, if termination did not occur, and respondent's criminal convictions were successfully appealed, respondent could end up with custody of the children if something were to happen to their biological mother. It is true that there was no evidence to show that respondent acted inappropriately with his own children. However, respondent perpetrated substantial abuse on the two-year old son of his live-in girlfriend, a child with whom respondent had a parental relationship, and "[e]vidence of how a parent treats one child is evidence of how he or she may treat the other children." *In re Hudson*, 294 Mich App 261, 266; 817 NW2d 115 (2011). The trial court determined that respondent's history evidenced a risk of harm to the children, and that termination of respondent's parental rights would provide permanency and finality. The trial court did not clearly err in its conclusion that termination of respondent's parental rights was in the best interests of children.

Affirmed.

/s/ Colleen A. O'Brien

/s/ Kathleen Jansen

/s/ Christopher M. Murray